



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,822	04/25/2000	Timothy A. Barton	2799CIP	9903

7590 10/09/2002

Niro Scavone Haller & Niro
Suite 4600
181 West Madison Street
Chicago, IL 60602

EXAMINER

NORMAN, MARC E

ART UNIT

PAPER NUMBER

3744

DATE MAILED: 10/09/2002

#110

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/557,822

Applicant(s)

BARTON, TIMOTHY A.

Examiner

Marc E. Norman

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 2 September 2002 have been fully considered but they are not persuasive. Applicant submits "there is no suggestion, teaching, or motivation to combine the Laverly methodology with the teachings of Hunt or that, if applied, the claimed invention would result." (page 4) In this vein, Applicant presents three basic arguments, each of which is addressed below.

1) "Laverly teaches that once the "I Do Not Agree" button is activated, the user must leave the website. Applying this concept to shipping services would be disastrous.... It is impermissible under 103 to pick and choose from a reference... to the exclusion of other parts necessary for a full understanding of what the reference would have suggested...." (page 4)

The examiner respectfully disagrees with Applicant's interpretation. The fundamental question at issue is the idea of forcing a user to accept or decline an option. This feature is clearly taught by the reference. Furthermore, it is not clear, as applicant asserts, that the user must leave the web site when they select "I Do Not Agree." This is simply presented as one possible option. Note that the reference goes on to state that "At minimum, the home page should clearly state that proceedings to use the site constitutes agreement to the terms and conditions conspicuously shown to the user." Clearly, one of ordinary skill in the art would understand that one could

Art Unit: 3744

reject the terms of the agreement and not be removed from the website where the terms and conditions are provided, but instead simply be denied access to information at issue.

2) *"Equally important, the claims now indicate that a plurality of services are to be sequentially accepted or declined. Again, Laverly does not teach this element since Laverly's focus is on getting user's to agree to terms of a website – a one time task that must be completed prior to entering the site."* (page 5)

Providing sequential listings of choices (e.g., a list of buttons) is common and well known in the art of Web design. Conducting a plurality of accept/decline agreements is simply an extrapolation of the basic concept of providing a singular accept/decline agreement. It would have been obvious to one of ordinary skill in the art to use the basic teachings of Laverly to present multiple access agreements to more than one area of interest, and also to present them in a sequential manner, for the purpose of allowing a user to accept or decline access to more than one area of interest.

3) *"Lastly, Laverly is simply not analogous prior art."* (page 6)

Again, the Examiner respectfully disagrees. Both Laverly and the present invention are directed to the fundamental concept of providing a mechanism whereby a user must explicitly accept or decline an option. Applicant may in fact be applying this feature to a different specific application than that of Laverly, but the fact remains that explicit accept/decline agreements are

Art Unit: 3744

old and well-known in the art of Web design. The fact that the Applicant applies this concept to transport services does not in itself render the concept novel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al. in view of Danford-Klein et al. and Laverly.

In light of the Response to Arguments set forth above, the rejections set forth in the previous Office Action (paper #7) are hereby carried forward and maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3744


however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 703-305-2711. The examiner can normally be reached on Mon.-Fri., 8:00-5:30, with first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on 703-308-2597. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5648.

MN
October 3, 2002


DENISE L. ESQUIVEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700